

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 11, 14-17, 19, 20, 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by the U.S. patent to Johansson, et al.

At the same time the Examiner indicated that claim 23 was allowed and claim 22 was allowable.

The Examiner's indication of the allowance and the allowability of some claims has been gratefully acknowledged. In connection with this indication, claim 23 has been retained as it was. Claim 22 has been amended by introducing into it the features of claim 11 from which it was dependent and thus making claim 22 independent. Claim 22 therefore should also be considered as being in allowable condition.

After carefully considering the Examiner's grounds for the rejection of the claims over the art, claims 11 and 26 have been retained as they were, while claims 24 and 25 have been slightly amended.

It is respectfully submitted that these claims clearly and patentably distinguish the present invention from the prior art.

Turning now to the Examiner's rejection of claim 11 over the prior art, it is respectfully submitted that this claim defines a hand power tool in which a handle has at least one gripping part and a mounting part. This feature means that the gripping part and the mounting part are parts of the handle. In the Office Action, in particular on page 3, the Examiner presented a figure supporting her definition for "handle" and "mounting part" in the patent to Johansson, et al. Considering this figure, it can be seen that the gripping part 19 forms a part of the handle; however, the mounting part obviously does not belong to the handle. On the contrary, the mounting part only serves to guide the push rod 40 and to support the damping element 35, on which the handle is being supported, but without being connected to it. Therefore, the patent to Johansson, et al does not disclose in the feature of claim 11 that the mounting part is a part of a handle.

It is therefore believed to be clear that claim 11 should be considered as patentably distinguishing the present invention from the patent to Johansson, et al for this specific feature.

Furthermore, neither the "mounting part" as defined by the Examiner nor the elastic element 35 serves to mount the gripping part 19 on

the housing of the power tool, contrary to the present invention as defined in claim 11. In the patent to Johansson, et al the gripping part 19 is supported turnably around the bolt 32 and is pressable by an operator against the elastic element 35 downwardly. The elastic element 35 is located in a cavity of the gripping part 19 and in a cavity of the "mounting part" without being connected to them. Therefore, the elastic element 35 can not mount the gripping part on the housing. This also would be superfluous since the gripping part 19 is already mounted by the bolt 32. In the patent to Johansson, et al the mounting part in the sense of claim 11 corresponds to the part of the handle being situated in the region of the bolt 32 through which the gripping part 19 is connected to the housing. Therefore, the feature of amended claim 1, according to which the gripping part of the handle is mounted on said housing through said elastic element and through said mounting part is not realized in the patent to Johansson, et al.

Claim 11 should be considered as patentably distinguishing over the patent to Johansson, et al for this feature as well.

Concerning claim 24, the Examiner does not mention all features of this claim in her arguments. It is defined in this claim that said movable safety element is not loaded during a predetermined operation and that the gripping part is held on the housing in case of the breakage of the elastic element. The patent to Johansson, et al, the safety element 40 as

defined by the Examiner is loaded during a predetermined operation because without loading the safety element 40 during a predetermined operation the pneumatic impact breaker does not work. By pushing and releasing the so-called safety element 40 a pressure is transmitted from a pivot lever 36 to an inlet valve 38 to change the intensity of movement of a cylinder load.

Therefore, claim 24 also clearly and patentably distinguishes the present invention by this feature from the patent to Johansson, et al.

Furthermore, the safety element 40 of the patent to Johansson, et al as defined by the Examiner does not hold the gripping part 19 of the housing 11 in case of a breakage of the elastic element 35. The gripping part 19 is held on the housing 11 by the bolt 32. In case of breakage of the elastic element 35 the gripping part 19 can move downwards. During the downward movement of the gripping part 19 the pivot lever 36 can be pushed against the so-called safety element 40 because the pivot lever 36 is picked up by the so-called safety element 40 by their connection. Then, the pressure which is transmitted by the pivot lever 36 to an inlet valve 38 is increased causing a high intensity of movement of the cylinder head. This high intensity can injure the operator of the pneumatic impact breaker. Due to this, the so-called safety element 40 has no security-relevant meanings.

Therefore, the invention defined in claim 24 also patentably distinguishes by this feature from the patent to Johansson, et al.

Concerning claim 25, the feature that one movable safety element is arranged so that it is redundant and functionless during a predetermined operation and serves to hold the gripping part on said housing in case of a breakage of said elastic element is not disclosed in the patent to Johansson, et al. On the contrary, under normal predetermined conditions of the use the safety element 40 as defined by the Examiner in the patent to Johansson, et al, which in fact represents a trigger element, is indispensable for the operation of the power tool.

Therefore, claim 25 also clearly distinguishes the present invention from the prior art by this feature.


It is respectfully submitted that a person skilled in the art could not find any hint or suggestion at the time the invention was made in the prior art represented by the patent to Johansson, et al which would have lead him to the invention as now defined in claims 11, 24, 25 and 26.

It is therefore respectfully submitted that these claims should be considered as patentably distinguishing over the art and should be allowed.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance; he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,



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